No. 10-338

IN THE

Supreme Court of the United States

DOMENIC TRICOME,
Plaintiff-Appellant-Petitioner,

—v.—

EBAY, INC.,
Defendant-Appellee-Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

SUPPLEMENTAL BRIEF FOR PETITIONER

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QUESTIONS PRESENTED FOR REVIEW
NEW MATTERS

1. The question this new matter pertains to is the bias against pro se:

    - Are many judges bias against pro se?

    - Why did a Judge not allow documents to be filed with the District Court in this Case before the Supreme Court of the United States; and then, when pushed by the pro se filer, backdate probably with a Clerk the documents without any such notation?

    - Why do pleadings have to be perfect forcing the pro se to hire a lawyer, when about $800,000 have been stolen by the Defendants with their lawyers?

    - Why are opposing lawyers allowed to lie in every case the Plaintiff-Appellant-Petitioner has been in?

2. The question this new matter pertains to is jurisdiction:

    - Why did the Defendant-Appellee-Respondent fight so hard for jurisdiction given their law firm is 341 miles (5 hours 47 minutes) away by car*?

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* Holland & Knight LLP, Los Angeles, CA 90071 to Courthouse, San Jose, CA 95113 (Google Maps)

3. The question this new matter pertains to is the merits of the Case relative to the Forum Selection Clause and the User Agreement:

    - Why is the Defendant-Appellee-Respondent presenting information about the Plaintiff-Appellant-Petitioner's actions when the Defendant-Appellee-Respondent's VP of the Legal Department, two lawyers, mid-managers and others cleared; recommended; reviewed; etc. everything the Plaintiff-Appellant-Petitioner did?

    - Why has the Defendant-Appellee-Respondent not stated that their lawyer, Michelle Fang, Associate General Counsel, told the Plaintiff-Appellant-Petitioner the reason why the Plaintiff-Appellant-Petitioner was terminated was due to the Plaintiff-Appellant-Petitioner doing what the Defendant-Appellee-Respondent said to do?

4. The question this new matter pertains to is the merits of the Case relative to the Defendant-Appellee-Respondent's credibility and the Sherman Act:

    - Why has the Defendant-Appellee-Respondent been sued 41 times so far in 2010 in Federal Court?

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ARGUMENT (in conjunction with Questions)

1. Even though the Plaintiff-Appellant-Petitioner filed a Petition for Writ of Certiorari with the Supreme Court of the United States, and is waiting on its decision, this case started in the U.S. District Court, Northern District of California, San Jose Division on 5/21/2010 without the Plaintiff-Appellant-Petitioner's knowledge, because the Court did not send the Plaintiff-Appellant-Petitioner anything, which is proved below. Thirteen documents were filed with and by the District Court over about three months without the Plaintiff-Appellant-Petitioner's knowledge. The Case Number is 5:10-cv-03214-LHK (TRICOME v. EBAY, INC. et al). When the Plaintiff-Appellant-Petitioner first became aware of the case going forward in the District Court on 8/11/2010, the Plaintiff-Appellant-Petitioner immediately called the Court and the Judge's Chambers to notify them that the Plaintiff-Appellant-Petitioner appealed the case to the Supreme Court of the United States. The Plaintiff-Appellant-Petitioner mailed a Brief to the District Court that day detailing the status of the case, and the Plaintiff-Appellant-Petitioner faxed the Brief to the Judge's Chambers. The Plaintiff-Appellant-Petitioner called the Judge's Chambers to confirm that they received the fax.

   The Brief was not entered into the docket. The case continues to move forward even though the Plaintiff-Appellant-Petitioner called, faxed and mailed a few times by each method the Court and

the Judge's Chambers stating that the case cannot be in two places at the same time. The situation may be that the District Court is not recognizing the Plaintiff-Appellant-Petitioner, because the Plaintiff-Appellant-Petitioner is pro se. Further, the Defendant-Appellee-Respondent was and is trying to make the case go forward, stating things to the Plaintiff-Appellant-Petitioner like (paraphrase), "Only this is being done."

On 9/8/2010, a District Court Calendar Clerk, Patricia Cromwell, told the Plaintiff-Appellant-Petitioner that the 8/11/2010 Brief was not in the Docket. Other District Court personnel stated the same. PACER showed the same. So, on 9/10/2010, the Plaintiff-Appellant-Petitioner filed a Motion for Continuance. The Motion for Continuance includes the following:

- Why and how can a case be in two places at the same time?
- Why has the District Court not mailed anything to the Plaintiff-Appellant-Petitioner?
- A request that the Plaintiff-Appellant-Petitioner be able to electronically file.

The District Court has not answered.

The Plaintiff-Appellant-Petitioner eventually spoke and faxed about the unfairness of the situation to the personnel involved, telling them that the Plaintiff-Appellant-Petitioner knew it was not their fault, and for them to tell the Judge, President Judge and Clerk what the Plaintiff-Appellant-Petitioner said. Magically, the

Plaintiff-Appellant-Petitioner's filings appeared in the Docket. All were backdated to the filing dates with no notation that the documents were filed about 30 to 60 days late. That is, somebody or some bodies covered up the late entries.

Out of as many as 20 documents the Plaintiff-Appellant-Petitioner should have received via the District Court, the Plaintiff-Appellant-Petitioner has received just two documents. The two documents were from the staff that have special tasks. The Plaintiff-Appellant-Petitioner never received the 7/23/2010 "Order Setting Initial Case Management Conference and ADR Deadlines." So, the Plaintiff-Appellant-Petitioner was not prepared for the Conference, and the Plaintiff-Appellant-Petitioner did not participate in the Conference. As of this writing, the Plaintiff-Appellant-Petitioner does not know everything the Plaintiff-Appellant-Petitioner should know in the case in the District Court. All of the District Court personnel that the Plaintiff-Appellant-Petitioner has spoken to are surprised that the case has been appealed. The Plaintiff-Appellant-Petitioner thought that the process was stopped a few times in the District Court, and that the case would be treated normally.

In DOMENIC TRICOME v. AUTOMATTIC, INC. et al (The Court of Common Pleas, Montgomery County, Pennsylvania; Case Number: 2009-19443), the Plaintiff-Appellant-Petitioner received a Default Judgment on 8/13/2009. The Defendants' defense is the reason why they were sued. This is not a trick. It's impossible to defend,

yet it is well over a year later, and literally nothing has been decided or done in the case for months. The Plaintiff-Appellant-Petitioner has spent about $10,000 in legal fees and about 220 hours on the case. Due to the Plaintiff-Appellant-Petitioner's financial problems, the Plaintiff-Appellant-Petitioner is now pro se.

In DOMENIC TRICOME v. FOOD INGREDIENTS INTERNATIONAL et al (The Court of Common Pleas, Montgomery County, Pennsylvania; Case Number: 2007-03309), the Defendants and their Counsel stole money from the Plaintiff-Appellant-Petitioner, yet the Judge is more concerned about the pleadings being perfect. So, he basically required the broke Plaintiff-Appellant-Petitioner to get a lawyer. The stolen money is being used by the thieves, the Defendants and their lawyers, to defend against their theft, and the Judge knows it.

If needed, there are more lawsuits that can be used as examples.

According to the Plaintiff-Appellant-Petitioner's five lawyer friends, who have been practicing for about 25 years each, in general, many judges are bias against pro se. The language can be a barrier. The proceedings can be a barrier.

The Plaintiff-Appellant-Petitioner believes that not only are many not getting justice. Many are so disenfranchised by the judicial system that they do not even try to get justice.

2. The Defendant-Appellee-Respondent filed a document on 9/10/2010, Request to Attend Initial Case Management Conference by Telephone. The Defendant-Appellee-Respondent most likely fought for jurisdiction to hurt the Plaintiff-Appellant-Petitioner.

3. The Defendant-Appellee-Respondent filed a document on 10/5/2010, Defendant eBay Inc.'s Initial Disclosures. The Plaintiff-Appellant-Petitioner uses a telephone company that has records of every incoming and outgoing call by the Plaintiff-Appellant-Petitioner, which includes many calls to the Defendant-Appellee-Respondent's lawyers. As stated in the Complaint and throughout this case, the Defendant-Appellee-Respondent has no defense, because their lawyers, managers, etc. reviewed, cleared, recommended, etc. everything the Plaintiff-Appellant-Petitioner did. The actions agreed to in lieu of the Defendant-Appellee-Respondent not allowing any other options were embarrassing and unnecessary.

   The Plaintiff-Appellant-Petitioner has tens of thousands of customers that are witnesses.

   After the Defendant-Appellee-Respondent terminated the Plaintiff-Appellant-Petitioner, the Defendant-Appellee-Respondent removed comments left by the Plaintiff-Appellant-Petitioner. However, the Defendant-Appellee-Respondent left defamatory remarks against the Plaintiff-Appellant-Petitioner and the Plaintiff-

Appellant-Petitioner's company to hurt both. Search engines pick up the defamation.

4. The following are some of the lawsuits against the Defendant-Appellee-Respondent in 2010:

   - *EWERT* v. *EBAY, INC.*, U.S. District Court; Northern District of California; San Jose Division; Case Number: 5:07-cv-02198-RMW Antitrust

   - *OSMAN et al* v. *PAYPAL, INC. et al,* U.S. District Court; Northern District of California; San Jose Division; Case Number: 5:10-cv-02046-PVT - Antitrust

   - *SMITH* v. *EBAY CORPORATION et al,* U.S. District Court; Northern District of California; San Jose Division; Case Number: 5:10-cv-11437-JCO -VMM - Antitrust

   - *XPRT VENTURES LLC* v. EBAY INC. et al, U.S. District Court; Delaware District; Case Number: 1:10-cv-00595-SLR

     XPRT Files $3.8 Billion Lawsuit Against eBay Charging Patent Infringement and Misappropriation of Trade Secrets

   - **EBay Found Liable in Louis Vuitton Suit**
     Paris court finds eBay using misspellings of Louis Vuitton as Web search terms hurt brand
     The Associated Press
     By SHAILA DANI AP Business Writer
     NEW YORK February 11, 2010 (AP)

UPDATE

The District Court Judge stated in his Opinion that he did not believe that the Plaintiff-Appellant-Petitioner could not make money. The Plaintiff-Appellant-Petitioner has made no money since selling the business over two years ago.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this Court should grant the Petition for Writ of Certiorari.

Respectfully submitted,

Dated: 10/27/2010

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